

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RAVEN RAMOS, JEFFREY MCNEILL, and
TYLER O'NEAL, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Civil Action No. 7:22-cv-02761-NSR

**PLAINTIFFS' RESPONSE TO DEFENDANT'S NOTICE OF SUPPLEMENTAL
AUTHORITY (ECF NO. 31)**

Plaintiffs respectfully submit this response to Defendant's Notice of Supplemental Authority (ECF No. 31). The decision in *Gutierrez* has nothing to do with this case or the *Vega* decision.

The Second Department held that NYLL § 191 “pertains to frequency of pay and not unpaid wages.” But *Vega* never said otherwise. As Defendant freely admits, this decision does not “address whether NYLL § 198 allows for a private right of action for a violation of NYLL § 191.”

Defendant is attacking a strawman. The fact that the Second Department held that § 191 is inapplicable to unpaid wages does not mean it believes that § 191 violations are unactionable. To the contrary, as noted in Plaintiffs' briefing, legislative memoranda from the passing of the modern-day Section 198 show an intent to create a private right of action with liquidated damages from late payment of wages.

Dated: November 17, 2022

Respectfully submitted,

By: /s/ Yitzchak Kopel
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